

# **Exhibit 1**



CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE

Karen Ross, Secretary

December 9, 2019

Rosalie Burkett  
Miyoko's Kitchen  
2086 Marina Avenue  
Petaluma, CA 94954

Dear Ms. Burkett,

The label for the Miyoko's Kitchen product currently bearing the words "Cultured Vegan Plant Butter" has been reviewed by the California Department of Food and Agriculture, Milk and Dairy Food Safety Branch. This label requires revision to be in compliance with Title 21, Code of Federal Regulations and the California Food and Agricultural Code (hereafter FAC). Please review the label, make necessary changes, and resubmit it for review. The revisions needed are numbered below and on the label.

1. The product currently features two statements of identity. One of the names of the food listed on the first package is "Cultured Vegan Butter". The other name listed on the product is "Cashew Cream fermented from live cultures". The name "Cashew Cream fermented from live cultures" appears toward the bottom of the page in small blue font. The name "Cashew Cream Fermented from live cultures" should be revised to be a principal part of the principal display panel as required by 21 CFR 101.3 for the name of the food.

The product cannot bear the name "Butter" because the product is not butter. "Butter" is defined in 21 U.S.C. 321a. as the food product made exclusively from milk or cream, or both with or without common salt ... and containing no less than 80 percentum by weight of milk fat, all tolerances having been allowed for. 21 USC 343(b) deems a food misbranded if it is offered for sale under the name of another food. The pervasive advertising of this product as "Butter" is just that, offering for sale this food, which is not butter; as a form of butter, or as butter itself. Remove the word "Butter" from the label. Images of animal agriculture from the website must also be removed such as the image below of the woman hugging a cow with other cows grazing in the background and the claim "100% dairy and cruelty free". Dairy images or associating the product with such

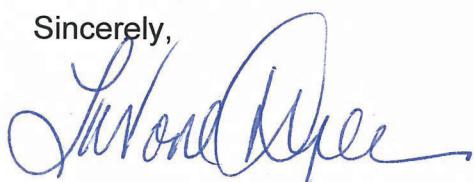


activities cannot be used on the advertising of products which resemble milk products. FAC 38955.

2. The product makes the following claims "Lactose Free", "Hormone Free", and "Cruelty Free". Because the product is not a dairy product it cannot assert these claims as they imply that the product may be a dairy food without these characteristics. Additionally, although the food may be of plant origin, plants also contain endogenous hormones which regulate growth. 21 CFR 102.5 (a) provides that the common or usual name of a food, which may be a coined term, shall accurately identify or describe, in as simple and direct terms as possible the basic nature of the food or its characterizing properties or ingredients. Under subdivision (c) of this same section it states that "The common or usual name of a food shall include a statement of the presence or absence of any characterizing ingredient(s) or component(s) and/or the need for the user to add any characterizing ingredient(s) or component(s) when the presence or absence of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present when it is not, and consumers may otherwise be misled about the presence or absence of the ingredient(s) or component(s) in the food. Revise the claims to remove those claims which are characteristic of dairy products. (The images are included on page 3 of 3 of this letter)

3. The products assert that they are "revolutionizing dairy with plants". The product is ineligible to make these claims as it is wholly composed of plant oils and is not of dairy origin. Remove these claims as they render the product misbranded with respect to dairy products and the food fails to contain the milk and milk ingredients which render them eligible for such claims. 21 CFR 101.18. and 21 CFR 130.8.

Sincerely,



LaVone Dyer R.E.H.S. R.D.I.  
Senior Environmental Scientist  
California Department of Food and Agriculture  
Milk and Dairy Foods Safety Branch

